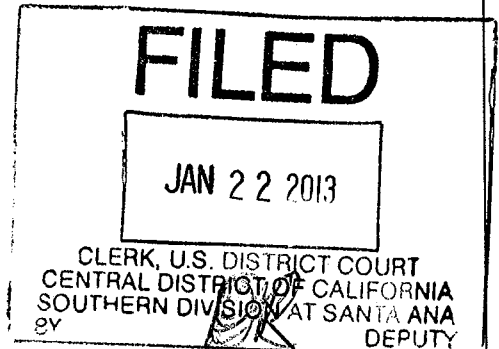


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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(SOUTHERN DIVISION – SANTA ANA)

S & S HAWAII B.B.Q., LLC, a
California Limited Liability Company,

Plaintiff,

vs.

CARRIE LUTKE dba ONO MEANS
DELICIOUS,

Defendant.

Case No. 8:12-cv-01955-AG-MLG

**CONSENT JUDGMENT AND
PERMANENT INJUNCTION**

In order to effectuate and implement the Confidential Settlement Agreement by and between the parties to this action, and the parties having submitted themselves to the Court's jurisdiction and having stipulated to the entry of this Consent Judgment and Permanent Injunction, and the Court having found that entry of this Consent Judgment and Permanent Injunction is necessary and proper to consummate the settlement and resolution of this action pursuant to this stipulation;

NOW, THEREFORE, upon agreement of the parties, it is ORDERED, ADJUDICATED, and DECREED as follows:

1. As alleged in the Complaint in this action, approximately forty (40) restaurants are operated in California and Arizona under Plaintiff S & S's ONO,

Consent Judgment And
Permanent Injunction

1 ONO HAWAIIAN BBQ and ONO HAWAII BBQ service marks, and the marks
2 have been continuously used since October 2002 for restaurant services.

3 2. As alleged in the Complaint in this action, Plaintiff S & S is the
4 owner of a number of federally registered service marks, including the following:
5 Registration No. 3710831, filed December 19, 2006 and registered November 17,
6 2009, for ONO HAWAIIAN BBQ® for “fast food and non-stop restaurant services;
7 restaurant services,” in International Class 43; Registration No. 3710832, filed
8 December 19, 2006 and registered November 17, 2009, for ONO HAWAII BBQ®
9 for “fast food and non-stop restaurant services; restaurant services,” in International
10 Class 43; Registration No. 3769281, filed May 5, 2003 and registered March 30,
11 2010, for ONO HAWAIIAN BBQ & Design® for “quick service restaurant serving
12 international food such as Japanese, Chinese, Philipino, American, Polynesian and
13 Hawaiian food,” in International Class 43; Registration No. 4101070, filed
14 November 30, 2010 and registered February 21, 2012, for ONO HAWAIIAN BBQ
15 & Design® for “restaurant and catering services; restaurant services; take-out
16 restaurant services,” in International Class 43; Registration No. 4101069, filed
17 November 30, 2010 and registered February 21, 2012, for ONO® for “restaurant
18 services and catering services; restaurant services; take-out restaurant services,” in
19 International Class 43 (collectively the “ONO Marks”).

20 3. The ONO Marks are valid and enforceable and constitute service
21 marks of Plaintiff S & S for the services listed in the registrations therefor and
22 substantially related services.

23 4. Defendant Carrie Lutke acknowledges the existence and validity in
24 the United States of Plaintiff S & S’s ONO Marks and the ownership thereof by
25 Plaintiff S & S.

26 5. As alleged in the Complaint, in or about April 2012, Defendant
27 Carrie Lutke began doing business as and using the business name, trade name,
28

1 trademark, and service mark "ONO MEANS DELICIOUS," in connection with the
2 operation of a restaurant in competition with Plaintiff S & S.

3 6. Defendants Carrie Lutke's use of the term "ONO MEANS
4 DELICIOUS" in connection with restaurant services is likely to cause confusion,
5 mistake and deception as to whether her restaurant business is affiliated with,
6 sponsored by, or otherwise connected to S & S's restaurants. Defendant Carrie
7 Lutke represents and avers that she has recently sold her restaurant and ceased
8 using the term "ONO MEANS DELICIOUS."

9 7. Defendant Carrie Lutke, on her own behalf and dba ONO MEANS
10 DELICIOUS, and on behalf of her agents, representatives, consultants, servants,
11 employees, affiliates, attorneys, administrators, heirs, successors, assigns, and all
12 ~~persons~~ ^{who receive notice of this document} acting in concert or participation with her and them (collectively "Lutke"),
13 are hereby permanently ENJOINED from any and all uses of the alleged trademark
14 ONO MEANS DELICIOUS, any business or trade name, trademark, service mark,
15 or domain name containing the term "ONO," or any of the ONO Marks. Lutke is
16 also permanently ENJOINED from any and all use of any confusingly similar
17 designation.

18 8. Except insofar as the parties have stipulated to the entry of the
19 permanent injunctive relief described herein, all claims are hereby dismissed with
20 prejudice. Each party shall bear its own costs and attorneys' fees.

21 9. Each of the parties hereto has had the opportunity to consult legal
22 counsel in connection with the preparation and terms of this Consent Judgment and
23 Permanent Injunction, and the stipulation for its entry by the Court in this action.

24 10. This Court shall retain continuing jurisdiction over the parties for the
25 purpose of entering enforcement orders in connection with this Consent Judgment
26 and Permanent Injunction, and in connection with the Confidential Settlement
27 Agreement and for the purpose of awarding such other and further ancillary relief
28 as may be proper in the circumstances of any such enforcement action.

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2 Dated: January 15, 2013

NIXON PEABODY LLP

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4 By: /s/ Robert A. Weikert

5 Robert A. Weikert
6 Attorneys for Plaintiff
7 S & S HAWAII B.B.Q., LLC

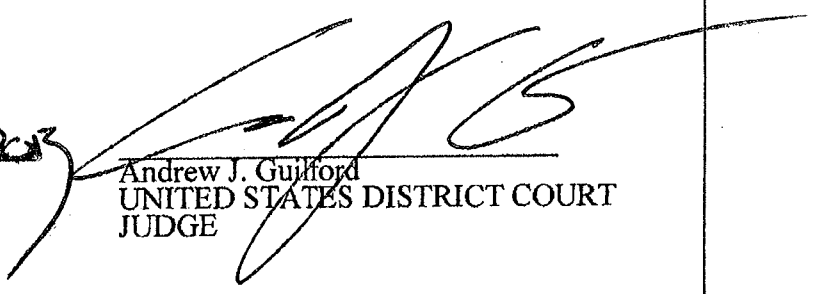
8 Dated: January 15, 2013

CARRIE LUTKE

9
10 By: 
11 Carrie Lutke dba ONO
12 MEANS DELICIOUS

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15 SO ORDERED:

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17 Dated: JANUARY 22, 2013


18 Andrew J. Guilford
19 UNITED STATES DISTRICT COURT
20 JUDGE

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Consent Judgment And
Permanent Injunction

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